

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MC ALLEN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO: 7:12-CR-1136-7
	)	
Plaintiff,	)	CRIMINAL
	)	
vs.	)	McAllen, Texas
	)	
DAVID OLIVAREZ,	)	Tuesday, January 8, 2013
	)	
<u>Defendant.</u>	)	(11:27 a.m. to 11:30 a.m.)

ARRAIGNMENT AND DETENTION HEARING

BEFORE THE HONORABLE DORINA RAMOS,  
UNITED STATES MAGISTRATE JUDGE

<u>Appearances:</u>	See next page
Court Recorder:	Lynette Slayton
Transcribed By:	Exceptional Reporting Services, Inc. P.O. Box 18668 Corpus Christi, Texas 78480-8668 361 949-2988

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ORIGINAL AND ONE COPY AT THE OFFICIAL RATE.  
General Order 94-15, United States District Court,  
Southern District of Texas.**

Proceedings recorded by electronic sound recording;  
transcript produced by transcription service.

**APPEARANCES FOR:**

**Plaintiff:** ANIBAL ALANIZ, ESQ.  
Assistant United States Attorney  
1701 W. Business Hwy. 83  
Suite 600  
McAllen, Texas 78501

**Defendant:** LILLY A. GUTIERREZ, ESQ.  
4901 S. Jackson Rd.  
Edinburg, Texas 78539

McAllen, Texas; Tuesday, January 8, 2013; 11:27 a.m.

(Call to Order)

**THE COURT:** Let me call for remand and detention,  
M-12-1136-S1, David Olivarez.

**MR. ALANIZ:** The Government is present and ready,  
your Honor.

**MS. GUTIERREZ:** Lilly Gutierrez on behalf of  
Defendant, David Olivarez. He is present and ready and does  
not need the services of an interpreter. I do have an  
announcement for the Court.

**THE COURT:** Okay.

**MS. GUTIERREZ:** I have reviewed the Superseding  
Indictment for Mr. Olivarez. And he understands the nature of  
the charge against him and he -- we've gone over the punishment  
range. I believe he is competent and he will be entering a  
plea of not guilty.

**THE COURT:** Very well. And Mr. Olivarez, I need to  
ask you some questions. I need to place you under oath. Raise  
your right hand, please.

**(Defendant Sworn)**

**THE COURT:** And put your hand down. Sir, your true  
name is David Olivarez?

**THE DEFENDANT:** Yes, ma'am.

**THE COURT:** And sir, have you ever been in a mental  
hospital?

1           **THE DEFENDANT:** No, ma'am.

2           **THE COURT:** Have you ever been treated for a mental  
3 illness, alcohol, or drug addiction?

4           **THE DEFENDANT:** No, ma'am.

5           **THE COURT:** Are you now under the influence of any  
6 drug, alcohol, or medication?

7           **THE DEFENDANT:** No, ma'am.

8           **THE COURT:** And you did review the Indictment with  
9 your attorney?

10          **THE DEFENDANT:** Yes, ma'am.

11          **THE COURT:** Do you understand what it is that you are  
12 charged with?

13          **THE DEFENDANT:** Yes, ma'am.

14          **THE COURT:** Would you like the Indictment read or do  
15 you waive the reading?

16          **THE DEFENDANT:** I waive it.

17          **THE COURT:** You do understand this Indictment charges  
18 you in Count Four with conspiracy to possess with the intent to  
19 distribute more than 1,000 kilograms of marijuana and if found  
20 guilty of this charge, you are facing a minimum of ten years  
21 imprisonment up to a maximum of life imprisonment, and a fine  
22 not to exceed \$10 million. Do you understand the nature of the  
23 charge and the penalty you are facing?

24          **THE DEFENDANT:** Yes, ma'am.

25          **THE COURT:** What is your plea to this charge, sir,

1 guilty or not guilty?

2 **THE DEFENDANT:** Not guilty.

3 **THE COURT:** I will enter your plea of not guilty and  
4 make a finding you're competent to stand trial. I advise you  
5 and your attorney Final Pretrial is set for February the 1st at  
6 9:00 a.m. before -- the Grand Jury selection is set for  
7 February the 5th at 9:30, defense motions are due by January  
8 the 14th. The Government's response is due by January the 25th  
9 and the deadline for motions for continuance for both sides is  
10 January the 18th.

11 As to the issue of detention, the Court takes  
12 judicial notice of the Pretrial Services Report. What is the  
13 Government's recommendation?

14 **MR. ALANIZ:** We're recommending detention, your  
15 Honor.

16 **THE COURT:** Okay. Do you have --

17 **MS. GUTIERREZ:** Your Honor, Mr. Olivarez understands  
18 that because he on State probation, that there is -- that they  
19 will be filing a Motion to Revoke. However, we just do want  
20 the Court to consider the fact that he is a United States  
21 citizen, he is married -- he's married to a United States  
22 citizen although they are separated at this time. He has two  
23 children that are United States citizens. All his ties are  
24 within the Rio Grande Valley. And he self-surrendered, your  
25 Honor. So we would just ask the Court to take that into

1 consideration.

2           **THE COURT:** All right. All right. The Court does  
3 note the nature of this offense, the quantity of marijuana  
4 involved in the conspiracy. The Court does also note you are a  
5 35 year old United States citizen with strong family, social  
6 ties and some economic ties in the area in which you reside.

7           The Court does also take into consideration your  
8 previous criminal history, your pending State revocation. I  
9 will find that at this time that there are no conditions or a  
10 combination of conditions that will secure your appearance at  
11 future Court proceedings. And at this time, you are remanded  
12 to the custody of the Marshal.

13           **MS. GUTIERREZ:** Your Honor, Mr. Olivarez would like  
14 to reserve his right to reopen this hearing if, in the future,  
15 some additional information arises.

16           **THE COURT:** Absolutely.

17           **MS. GUTIERREZ:** Thank you, your Honor.

18           **THE COURT:** Uh-huh.

19           **(This proceeding was adjourned at 11:30 a.m.)**  
20  
21  
22  
23  
24  
25

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

A handwritten signature in black ink, appearing to read "Toni Hudson", is written over a horizontal line.

Signed

March 28, 2013

Dated

*TONI HUDSON, TRANSCRIBER*